

TCEQ DOCKET NO. 2010-0660-AIR

IN THE MATTER OF THE	§	
APPLICATION OF TOMMY DAVIS	§	BEFORE THE TEXAS COMMISSION
DBA SLICK MACHINES FOR TCEQ	§	ON
AIR PERMIT NO. 82199L002	§	ENVIRONMENTAL QUALITY

**CHALK MOUNTAIN FOUNDATION, INC.'S  
REPLY TO THE EXECUTIVE DIRECTOR'S RESPONSE  
TO HEARING REQUESTS**

Chalk Mountain Foundation, Inc. ("Chalk Mountain" or "the Foundation"), files this Reply to the Response filed in this docket by the Executive Director ("ED") of the Texas Commission on Environmental Quality and respectfully shows the following:

**I. Introduction**

The above-referenced permit application number received 254 hearing requests during the request period. The Executive Director issued its Response to Hearing Requests on June 7, 2010, as did the Office of Public Interest Counsel ("OPIC"). The ED recommended that the Commission refer 13 of the 21 issues it addressed to the State Office of Administrative Hearings ("SOAH") for a contested case hearing. Chalk Mountain Foundation, Inc., was recommended, among others, by both the ED and OPIC to be granted "party" status in a contested hearing.

**II. Additional Issues to be Referred**

Complaint response time. In its Response, the ED listed four issues that it believes are not within the scope of this permit review. One of these issues is the concern by some requestors of the response time necessary for agency regional office staff to

investigate complaints.

Often, regional staff of TCEQ must travel to remote locations, the offices have limited staff, and staff members are tied to doing a number of investigations on various properties. These circumstances create a complaint response-time that occasionally is not prompt enough to document serious non-compliance events. In the event that a complaint is made about dust from this facility, the 30 days that TCEQ has to respond to an investigation request seems unreasonable, and puts neighbors at risk, while giving Applicant the ability to be in violation for weeks.

The permit needs to be enforceable as a practical matter. That need makes the realistically-foreseeable complaint response time a relevant issue for the hearing. The response time will help dictate the special permit conditions, such as, possibly, enhanced monitoring, that will make the permit enforceable as a practical matter.

Particulate matter deposited on surface waters. The site for the rock crusher, the Parham property, drains to Rough Creek. The site is north of the Oak Ridge Ranch, which contains six ponds that are downstream on Rough Creek. The deposition of particulate matter from Applicant's rock crushing operation to the creek and creek bed will increase total suspended solids in Rough Creek. This, potentially, harms water quality and the aquatic species in water bodies on or around the Parham property. It also increases sediment accumulation in the ponds on the Oak Ridge Ranch.

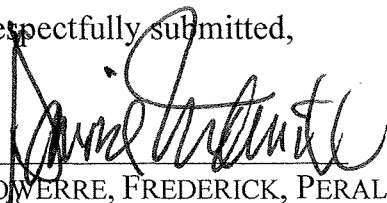
The two issues discussed here should be on the table for consideration at the hearing. The first bears directly on the appropriate permit monitoring conditions, and the

second bears directly on the health of local aquatic ecosystems and on the physical property of at least downstream landowners.

### **III. Conclusion and Prayer**

For the reasons discussed above, Chalk Mountain Foundation, Inc., respectfully requests that in addition to the thirteen items already recommended for referral by the Executive Director, that items regarding complaint response times and the effects of deposition of particulate matter on surface waters and surface water impoundments also be referred to SOAH.

Respectfully submitted,



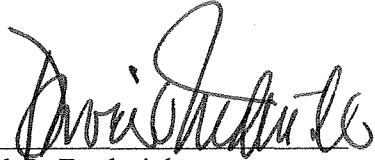
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## CERTIFICATE OF SERVICE

By my signature below, I certify that on this 21st day of June, 2010, copies of the foregoing document were served upon the parties identified below via facsimile transmission, electronic mail, and/or U.S. Postal Mail.



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